

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO SUMMARY ORDERS FILED AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY THIS COURT'S LOCAL RULE 0.23 AND FEDERAL RULE OF APPELLATE PROCEDURE 32.1. IN A BRIEF OR OTHER PAPER IN WHICH A LITIGANT CITES A SUMMARY ORDER, IN EACH PARAGRAPH IN WHICH A CITATION APPEARS, AT LEAST ONE CITATION MUST EITHER BE TO THE FEDERAL APPENDIX OR BE ACCOMPANIED BY THE NOTATION: "(SUMMARY ORDER)." UNLESS THE SUMMARY ORDER IS AVAILABLE IN AN ELECTRONIC DATABASE WHICH IS PUBLICLY ACCESSIBLE WITHOUT PAYMENT OF FEE (SUCH AS THE DATABASE AVAILABLE AT [HTTP://WWW.CA2.USCOURTS.GOV](http://www.ca2.uscourts.gov)), THE PARTY CITING THE SUMMARY ORDER MUST FILE AND SERVE A COPY OF THAT SUMMARY ORDER TOGETHER WITH THE PAPER IN WHICH THE SUMMARY ORDER IS CITED. IF NO COPY IS SERVED BY REASON OF THE AVAILABILITY OF THE ORDER ON SUCH A DATABASE, THE CITATION MUST INCLUDE REFERENCE TO THAT DATABASE AND THE DOCKET NUMBER OF THE CASE IN WHICH THE ORDER WAS ENTERED.

At a stated term of the United States Court of Appeals
for the Second Circuit, held at the Daniel Patrick Moynihan
United States Courthouse, 500 Pearl Street, in the City of
New York, on the 16th day of July, two thousand seven.

PRESENT:

HON. PIERRE N. LEVAL,
HON. GUIDO CALABRESI,
HON. JOSÉ A. CABRANES,
Circuit Judges.

ABSA SAMBA,
Petitioner,

v.

ALBERTO GONZALES,
ATTORNEY GENERAL OF THE UNITED STATES
Respondent.

06-5182-ag
NAC

FOR PETITIONER: Ronald S. Solomon, New York, New

1 York.

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3 **FOR RESPONDENT:** **Peter D. Keisler, Assistant Attorney**
4 **General, Civil Division; Michelle E.**
5 **Gorden Latour, Assistant Director;**
6 **Koshei Ugumori, Attorney, Office of**
7 **Immigration Litigation, Civil**
8 **Division, U.S. Department of**
9 **Justice, Washington, D.C.**
10

11 UPON DUE CONSIDERATION of this petition for review of a
12 Board of Immigration Appeals ("BIA") decision, it is hereby
13 ORDERED, ADJUDGED, AND DECREED that the petition for review
14 is DENIED.

15 Petitioner Absa Samba, a native and citizen of Gambia,
16 seeks review of an order of the BIA affirming the May 4,
17 2005 decision of Immigration Judge ("IJ") Joanna Miller
18 Bukszpan, denying Samba's applications for asylum,
19 withholding of removal, and relief under the Convention
20 Against Torture ("CAT"). In re Samba, Absa, No. A78 688 829
21 (B.I.A. Oct. 10, 2006), aff'g No. A78 688 829 (Immig. Ct.
22 N.Y. City May 4, 2005). We assume the parties' familiarity
23 with the underlying facts and procedural history in this
24 case.

25 Where the BIA summarily affirms the decision of the IJ
26 without issuing an opinion, see 8 C.F.R. § 1003.1(e)(4),
27 this Court reviews the IJ's decision as the final agency

determination. See, e.g., Twum v. INS, 411 F.3d 54, 59 (2d Cir. 2005). This Court reviews the agency's factual findings under the substantial evidence standard, treating them as "conclusive unless any reasonable adjudicator would be compelled to conclude to the contrary." 8 U.S.C. § 1252(b)(4)(B); see, e.g., Zhou Yun Zhang v. INS, 386 F.3d 66, 73 & n.7 (2d Cir. 2004). However, we will vacate and remand for new findings if the agency's reasoning or its fact-finding process was sufficiently flawed. Cao He Lin v. U.S. Dep't of Justice, 428 F.3d 391, 406 (2d Cir. 2005).

Here, substantial evidence supports the IJ's determination that Samba failed to establish eligibility for asylum. To establish eligibility, an asylum applicant must show that she has suffered past persecution or has a well-founded fear of future persecution. See 8 U.S.C. § 1101(a)(42). The IJ correctly concluded that the treatment Samba alleged—a three-day detention, during which she was not physically mistreated, and a demotion to receptionist—does not rise to the level of persecution. See Ai Feng Yuan v. U.S. Dep't of Justice, 416 F.3d 192, 198 (2d Cir. 2005). Furthermore, while Samba may have a genuine, subjective fear of future persecution, the IJ correctly concluded that her

1 fear is not objectively reasonable and, thus, not well-
2 founded. Ramsameachire v. Ashcroft, 357 F.3d 169, 178 (2d
3 Cir. 2004).

4 Because Samba failed to raise her claims for
5 withholding of removal and CAT relief before the BIA or in
6 her brief to this Court, we deem those claims abandoned.
7 See Yueqing Zhang v. Gonzales, 426 F.3d 540, 546 n.7 (2d
8 Cir. 2005).

9 For the foregoing reasons, the petition for review is
10 DENIED. Having completed our review, any stay of removal
11 that the Court previously granted in this petition is
12 VACATED, and any pending motion for a stay of removal in
13 this petition is DISMISSED as moot. Any pending request for
14 oral argument in this petition is DENIED in accordance with
15 Federal Rule of Appellate Procedure 34(a)(2), and Second
16 Circuit Local Rule 34(d)(1).

17
18 FOR THE COURT:
19 Catherine O'Hagan Wolfe, Clerk
20

21 By: _____
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